

Appl. No. 10/803,945  
Amendment  
Response to Office Action mailed August 28, 2007

Docket No. TSM-37

### **REMARKS**

#### **Pending Claims**

Claims 7, 9-11, 14-17, 19 and 21-28 are pending in this application.

#### **Claim Rejections Under 35 U.S.C. §103**

Claims 7, 10-11, 14-17, 19 & 21-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Oka, U.S. Patent Publication No. 2004/0010732 in view of Aaron, U.S. Patent No. 5,483,649. Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over Oka '732, in view of Aaron '649, further in view of Kouznetsov et al, U.S. Patent Publication No. 2003/0233574.

Applicants submit an English language translation of the Japan priority application No. JP 2003-154870 filed May 30, 2003. The translation is submitted for the purpose of overcoming the effective date of Oka under 35 U.S.C. §102(a). The translation includes a statement that it is correct and accurate, as required.

Applicants are entitled to the priority date of the priority application because the rejected claims are supported by the priority application. Note that the figures of the English translation submitted herewith correspond with those of the present application. Further, the reference numbers that are used throughout the figures and specification in the English translation of the priority document are the same as the reference numbers used throughout the figures and specification of the present application. Therefore, it stands to reason that the

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Specification of the priority document is substantially the same as that of the present application, and therefore, the rejected claims are supported by the priority document.

Applicants note that the subject matter developed by Oka and the invention claimed in the present application were, at the time the claimed invention was made, owned by Hitachi, Ltd. or subject to an obligation of assignment to Hitachi, Ltd. Hitachi Ltd. is indicated as the assignee of Oka, as seen on the face of the patent. The assignment of the present application to Hitachi Ltd. is recorded at Reel/Frame 015520/0238. Accordingly, Oka does not qualify as prior art under 35 U.S.C. §102(e), and is therefore not available as prior art in combination with Aaron or Kouznetsov according to 35 U.S.C. §103(c).

In view of the foregoing, Applicants respectfully assert that the rejection under 35 U.S.C. §103(a) of claims 7, 9-11, 14-17, 19 and 21-28 should be withdrawn since the Oka reference does not qualify as prior art.

#### Conclusion

In view of the foregoing, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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